

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

Patricia Crumley, on behalf of herself and  
all others similarly situated,

Case No. 07-3946 (JNE/JJG)

Plaintiff,

**DEFENDANT TIME WARNER  
CABLE, INC.'S MOTION TO  
DISMISS OR ALTERNATIVELY  
STAY PROCEEDINGS**

vs.

Time Warner Cable, Inc., a division of  
Time Warner Entertainment Company, Inc.,

Defendant.

---

Defendant Time Warner Cable, Inc. ("TWC"), by its undersigned attorneys, respectfully moves, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss the entirety of Plaintiff's Amended Complaint with prejudice on the grounds that Plaintiff's Complaint is barred by the filed rate doctrine and preempted by federal law. In addition, TWC moves, pursuant to Fed. R. Civ. P. 12(b)(1) and the Federal Arbitration Act (9 U.S.C. § 1, *et seq.*), to dismiss the Amended Complaint or alternatively to stay these proceedings, based on the presence of a binding arbitration clause in the applicable agreement between the parties.

The grounds for this motion will be set forth in a memorandum of law and affidavit to be filed in support thereof 45 days prior to the hearing on this motion.

Dated: November 9, 2007.

KELLY & BERENS, P.A.

By: s/ Tracey L. Baubie  
Timothy D. Kelly (#54926)  
Tracey L. Baubie (#0224625)  
3720 IDS Center  
80 South Eighth Street  
Minneapolis, Minnesota 55402  
(612) 349-6171

WARGO & FRENCH LLP  
Michael S. French (admitted *pro hac vice*)  
1170 Peachtree Street  
Suite 2020  
Atlanta, Georgia 30309  
(404) 853-1510

***Attorneys for Defendant***